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GUIDELINE G-3

ENVIRONMENTAL CLEAN-UP FUND
(Formerly Environmental Security Account)

Legislative Authority:

Environmental Protection Act, Sections 94, 146, 147
Environmental Assessment Act, Section 3.2
Ontario Water Resources Act, Sections 80, 81

Responsible Director:

Assistant Deputy Minister, Operations Division

Last Revision Date:

April 2001

TABLE OF CONTENTS

1.0 INTRODUCTION

2.0 STATEMENT OF PRINCIPLES

- 2.1 Eligibility Requirements

3.0 DEFINITIONS

4.0 GUIDELINE REQUIREMENTS

- 4.1 Project Controls
  - 4.1.1 Control Procedures
  - 4.1.2 Records
  - 4.1.3 Recoveries
- 4.2 Responsibilities
  - 4.2.1 Assistant Deputy Minister, Operations Division
  - 4.2.2 Region/Branch
  - 4.2.3 Environmental Assessment & Approvals Branch
  - 4.2.4 Business & Fiscal Planning Branch
  - 4.2.5 Project Coordinator
  - 4.2.6 Project Manager

5.0 PROCEDURE FOR PROJECT APPLICATION

- 5.1 Responsibilities
  - 5.1.1 Director of Region/Branch
  - 5.1.2 and 5.1.4 Environmental Assessment & Approvals Branch
  - 5.1.3 Assistant Deputy Minister, Operations Division
  - 5.1.5 Business & Fiscal Planning Branch

6.0 EMERGENCY SPILL CLEAN-UP FUNDING REQUEST/REIMBURSEMENT

- 6.1 Responsibilities
  - 6.1.1 Region
  - 6.1.2 and 6.1.4 Environmental Assessment & Approvals Branch

6.1.3	Assistant Deputy Minister, Operations Division
6.1.5	Business & Fiscal Planning Branch

SYNOPSIS

This guideline and procedure document outlines the ministry's administration of the Environmental Clean-up Fund, formerly the Environmental Security Account. Specifically it describes the roles and responsibilities of ministry staff in the use of funds from the Environmental Clean-up Fund program. The fund is administered by the Director of the Environmental Assessment & Approvals Branch. The overall authority for the Environmental Clean-up Fund rests with the Assistant Deputy Minister of Operations Division.

The original Guideline G-3 entitled "Guidelines and Procedures for the Environmental Security Account Projects" has been revised to reflect organizational changes which have taken place within the Ministry, as well as to update the information contained in the original document. This guideline, including the eligibility requirements to access the fund, was approved by Management Board of Cabinet on December 1, 1987.

The Environmental Clean-up Fund was established to allow the ministry to act quickly to resolve serious or urgent environmental problems. The fund covers both Capital and Operating expenditures that are incurred as part of a clean-up project. However, it should be noted that funding is only provided if a responsible party cannot be identified, located, or refuses or is unable to take the necessary remedial action.

The Regional Director determines the need for funding to be supplied by the Environmental Clean-up Fund and submits a written request to the Director of the Environmental Assessment and Approvals Branch. The branch determines the eligibility of the request and makes recommendations with respect to funding approval/denial to the Assistant Deputy Minister of Operations Division.

In some cases emergency response, initial investigation, field monitoring and initiation of ministry-authorized containment/cleanup may have taken place prior to the Regional Director requesting funding from the Environmental Clean-up Fund. Ideally, the request for funding should be made prior to the ministry assuming any responsibility for the project.

1.0 INTRODUCTION

The Ministry of the Environment (MOE) has jurisdiction over the investigation, cleanup and restoration of the natural environment. Actions necessary to resolve environmental problems or provide interim solutions can be undertaken by site owners, persons responsible for the contamination, municipalities, the MOE, or other agencies including federal departments, other ministries, local electrical utilities and fire departments.

The agencies identified above, can frequently provide a cleanup response in conjunction with the polluter's efforts or independently if the polluter fails to do so. Ministry staff involved in cleanup activities should be aware of these alternatives and make use of them wherever practicable. If no other agency is willing or able to accept the cleanup responsibility, and if the polluter is not fulfilling his/her duty, then the ministry may need to become more directly involved.

The Environmental Clean-up Fund is not intended to replace other programs. Furthermore, projects utilizing approved under the Environmental Clean-up Fund must adhere to the procedures identified in this document.

2.0 STATEMENT OF PRINCIPLES

The objective of the Environmental Clean-up Fund is to fund projects directed to the resolution of serious or urgent environmental problems.

Funds will be directed mainly towards the implementation of remedial measures where there is a real or potential risk of harm to public health and safety or the environment.

The Environmental Clean-up Fund may be used in emergency situations, in cases of unresolved environmental problems to fund projects that clean up or restore the natural environment, protect human health and safety, and provide alternative water supplies where an existing supply is at risk from contamination.

Except where immediate ministry action is necessary to protect the natural environment or public health and safety, funds from the Environmental Clean-up Fund shall only be made available if a responsible party cannot be identified, or where other measures such as Control Orders, Director's Orders or Minister's Orders have not been complied with.

Every possible effort shall be made to identify those responsible for the contamination and recover funds disbursed from the Environmental Clean-up Fund.

2.1 Eligibility Requirements

Projects must meet one or more of the following requirements to be eligible:

- provision of alternative water supplies where existing supplies are affected or threatened by a source of contamination;
- cleanup of areas where environmental damage or health risks are identified;
- hydrogeological studies of areas where serious contamination is known or expected;
- actions to remove or reduce potential long term environmental hazards.

3.0 DEFINITIONS

Capital Expenditures:

Can be divided into three broad categories, which are defined as follows, as per the Financial Administration Act:

1. Construction and Acquisition Costs:

   Any cost that is attributable to the planning, development and design of land, a building, construction, structure or facility which is part of the Ontario-owned infrastructure, including costs incurred to purchase machinery and equipment that are part of and essential to the functioning of land, building, structure or facility.

2. Services Costs:

   Any cost that is attributable to the nature of planning, development and design of land, a building, construction, structure or facility which is part of the infrastructure owned, administered, and/or controlled by the Broader Public Sector owned infrastructure of Ontario (e.g., municipalities, townships, organized communities etc.). This includes costs for engineering studies, structural repairs related to land, building and engineering structures, and major repairs to machinery and equipment.

3. Transfer Payments (Capital):

   Payment from a government for the purpose of capital construction, acquisition and services (as per transfer payment definition in the Financial Administration Act).

Capital projects refer to capital expenditures supported by the *Consolidated Revenue Fund*. Examples

include construction of a groundwater interception wall, a containment system, a lagoon, a leachate collection and treatment system, a communal well system, a waste treatment system, storage facilities and other environmental control facilities.

End of Project Report:

A report, submitted at the completion of the project, detailing remedial measures implemented, results achieved, and any future action required, including any financial assurance contribution from the responsible party(ies), cost sharing arrangements, or cost recovery efforts.

FACTS Report:

FACTS is an acronym which stands for "Financial Administration and Commitment Tracking System". It refers to a financial report, generated by the Business and Fiscal Planning Branch on a monthly basis.

Fiscal Year:

An accounting period of twelve consecutive months. For the purposes of the Ministry of the Environment, this period begins April 1st of any given year and concludes March 31st of the following year.

Multi-Year Project:

A clean-up project which either spans two or more fiscal years , and/or takes greater than twelve consecutive months to complete.

Operating Expenditures:

May be incurred for projects such as providing an alternate water supply, installing a device to treat contaminated well water in a privately owned system, investigating/assessing a site, removing/disposing of hazardous waste, or cleaning-up a site where the remedial measures are not capital in nature.

Operating expenditures relating to transfer payments refer to payment from a government for the purpose of carrying out remedial work which is not capital in nature.

Project Closure Certificate:

A certificate, signed by the Project Coordinator, indicating that all expenditure payments for the project have been completed, detailing the final cost, and summarizing the efforts made towards the recovery of funds.

Project Coordinator:

An appointed member of Ministry staff accountable for overall project control and monitoring.

Project Liaison Committee:

A committee which may be established by the region/branch to review and advise on all aspects of the project management. The committee shall be chaired by the Project Coordinator and may be comprised of internal and external parties.

Project Manager:

Where a need is identified, the Project Coordinator may appoint or hire an individual who, under the direction of the Project Coordinator, will be accountable for control of clearly defined works involving extensive protracted work or engineering action.

Request for Emergency Spill Clean-up Funding:

A written submission to request funds for spill containment and clean-up. This submission is prepared by the Region that is involved in an emergency situation where the owner of the spilled materials could not be identified/located, or refuses, or is unable to take the necessary action.

4.0 GUIDELINE REQUIREMENTS

4. 1 Project Controls

The overall budgetary control and funding approval for all individual projects is the responsibility of the Assistant Deputy Minister of Operations Division. The Director of the Environmental Assessment and Approvals Branch is responsible for administration and expenditure control of the Environmental Clean-up Fund. This function is coordinated by Environmental Clean-up Fund Coordinator in the branch.

4.1.1 Control Procedures

Project control procedures shall ensure:

- all pertinent legislative requirements and administrative policies, directives and guidelines are followed;
- adequate project monitoring;
- evaluation of results expected against those achieved;

- appropriate disbursements of funds.

4.1.2 Records

Records, suitable for audit and cost recovery purposes, shall be maintained for each project by the Project Coordinator or designate.

4.1.3 Recoveries

Every possible effort shall be made to recover monies disbursed from the Environmental Clean-up Fund from those responsible.

4.2 Responsibilities

4.2.1 Assistant Deputy Minister, Operations Division

The Assistant Deputy Minister of Operations Division shall:

- oversee the use of the Environmental Clean-up Fund;
- approve the undertaking of Environmental Clean-up Fund projects based on the established eligibility requirements;

4.2.2 Region

The Region where the approved project is located shall, either by utilization of existing resources, or through the use of contracted external services:

- carry out emergency response and all abatement activities, including the initial monitoring to define the nature and magnitude of the contamination problem;
- identify and direct the responsible party(ies) to undertake remedial measures;
- prepare a request to access the Environmental Clean-up Fund to the Environmental Assessment & Approvals Branch (EAAB), detailing the nature of the contamination, the associated health and/or environmental risk or damage, the proposed actions and the estimated costs;
- appoint a Project Coordinator to oversee the undertaking of the project;
- provide general technical support to the Project Coordinator;

- provide related project information to the EAAB for funding priority considerations;
- provide for site management;
- be responsible for all public relations work with any liaison committee or the public;
- be responsible for controlling and managing the resources employed in completing the project;
- assist the Project Coordinator in undertaking all post clean-up monitoring;
- prepare a report on results achieved to serve as a mechanism for central recording, as well as to provide information to senior management;
- initiate efforts to recover costs from the responsible party(ies) whenever possible.

4.2.3 Environmental Assessment and Approvals Branch

The Environmental Assessment and Approvals Branch shall:

- assess all requests for approval of projects under the Environmental Clean-up Fund;
- determine compliance with established eligibility requirements, determine funding priority and impacts, and if eligible, recommend approval of the project through the Director of the Environmental Assessment and Approvals Branch, to the Assistant Deputy Minister of Operations Division;
- provide advice or assistance to Region/Branch staff on request;
- maintain records of all projects including requesting/authorizing memoranda, project progress reports, the Project Coordinator's *End of Project Report*, the Project Closure Certificate and any other documentation necessary for control purposes;
- co-ordinate with Regional Project Coordinators to ensure every possible effort is made to recover project expenditures from those responsible for the contamination;
- maintain records of all projects (new and old) for which efforts are being made, or will be made, for the recovery of expended funds from those responsible. Such records are to be maintained until funds are recovered or until all necessary investigations or proceedings are completed;
- ensure that total budgets and annual budgets are identified for each project;
- notify the requesting Region of the accounting codes to be used;

- track expenditures and projected cash flow on a fiscal year basis and liaise with Project Coordinators to obtain the necessary information to maintain accurate and complete records;
- receive, review and update the monthly financial reports for forecasting purposes;
- reconcile the budget in conjunction with Project Coordinators;
- assess the status of the Environmental Clean-up Fund and make recommendations for successive years funding;
- periodically brief the Assistant Deputy Minister of Operations Division and the Director of the Environmental Assessment and Approvals Branch, on the status of the Environmental Clean-up Fund Account and the progress of specific projects;
- compile annual progress reports and expenditures for all active projects;

4.2.4 Business & Fiscal Planning Branch

The Business & Fiscal Planning Branch shall:

- implement and/or reactivate an Environmental Clean-up Fund Project code upon request of the Environmental Assessment and Approvals Branch;
- provide follow-up to the Environmental Assessment and Approvals Branch, confirming the assignment of a new number, or re-activation of an existing one;
- process payment of approved invoices;
- process authorized changes to established budgets;
- prepare and disseminate financial reports, including expenditures and forecasted expenditures, for the Environmental Clean-up Fund as a whole as well as for its individual projects;
- upon notification of potential revenue source(s), issue required invoices and initiate cost recovery proceedings;
- assist in the development and administration of any cost sharing agreements and Financial Assurance;
- inactivate the completed project code upon notification by the Environmental Assessment and Approvals Branch.

4.2.5 Project Coordinator

The Project Coordinator shall:

- be responsible and accountable for all activities pertaining to the approved project;
- initiate an investigation(s) to identify sources of contamination and consider options for the recovery of disbursed funds from the responsible parties;
- notify the Environmental Assessment and Approvals Branch, Legal Services Branch and the Business & Fiscal Planning Branch of the need to recover funds and assist in the coordination of efforts for recovery;
- document the effort made towards the recovery of funds;
- recommend the requisition to purchase goods and services in accordance with work schedules/phased programs;
- be cognizant of, and comply with, the requirements of all existing policies, directives and guidelines affecting the acquisition of external services, supplies and equipment;
- define the objectives of the study and develop the terms of reference for engaging the consultant and defining the consultant's and duties.
- ensure remedial and/or decommissioning works performed on site are in compliance with the "Guideline for Use at Contaminated Sites in Ontario";
- verify and code all invoices detailing expenditures chargeable to the established project account;
- ensure that each invoice, when verified, is approved by a staff member having appropriate signing authority and forward it to the Business & Fiscal Planning Branch for processing;
- develop current and future cash flow forecasts for each project based on the proposed workplan, and set up a corresponding task-specific financial account to track expenditures against the budgetary forecasts.
- review project budget and expenditure reports generated by the Business & Fiscal Planning Branch on a monthly basis, and provide forecast updates to the Environmental Assessment and Approvals Branch;
- review project budget and expenditure reports, develop current and future cash flow forecasts and provide this information to the Environmental Assessment and Approvals Branch;

- develop written submissions to the Environmental Assessment and Approvals Branch to request additional funding to cover any exceedances of an approved project budget . (The requests are made to the Environmental Assessment and Approvals Branch by the Regional Director);

- prepare an annual project progress report along with a multi-year project forecast and submit the report to the Environmental Assessment and Approvals Branch;

- accommodate requests to prepare and submit additional reports (e.g. briefing notes);

- secure all necessary approvals and satisfy requirements of pertinent legislation, e.g. Environmental Assessment Act, Environmental Protection Act;

- prepare or oversee the preparation of an *End of Project Report* when remedial efforts have been completed;

- prepare a Project Closure Certificate when all invoices for the project have been paid, and submit the certificate along with the *End of Project Report* to the EnvironmentalAssessment and Approvals Branch.

4.2.6 Project Manager

The Project Manager shall:

- assist the Project Coordinator in the management of specific works;

- develop and provide agreements for professional services and/or financial control;

- be responsible for the tendering process for any contracted work in accordance with current standards, policies and directives;

- develop all property agreements involving Working Rights Agreements, easements or purchase of parcels of lands, or structures, with the assistance of the Management Board Secretariat, and/or MOE, Legal Services Branch.

5.0 PROCEDURE FOR PROJECT APPLICATION

5.1 Responsibilities

5.1.1 Director of Region

The Director of the Region shall prepare a written request to initiate an Environmental Clean-up Fund project which includes the following:

- a description of the problem and the nature of the contamination, health risks or environmental damage;
- a statement relating the problem to the eligibility requirements;
- background information including site related project information which would have a bearing on funding priority considerations;
- specific details of the proposed action;
- clarification on the proposed site ownership status;
- the total estimated cost of the project;
- the estimated annual costs on a fiscal year basis for the length of the project;
- the anticipated schedule/phasing of the project; and
- the name of the Project Coordinator.

Once the request has been prepared, the Director of the Region shall forward it to the Director of the Environmental Assessment and Approvals Branch.

5.1.2 Environmental Assessment and Approvals Branch

The Environmental Clean-up Fund Coordinator shall assess all requests in order to:

- determine compliance with eligibility requirements;
- evaluate the urgency of the situation, and the need to take action as detailed in the information package;
- assess the impact of approving/denying the project, at the same time taking into consideration funding priority;
- determine and identify if the project would be funded under Capital expenditures or Operating expenditures;

- determine the financial capability of the account to cover estimated project costs;

- seek concurrence from the Director of the Environmental Assessment and Approvals Branch regarding of the eligibility ruling for each project request;

- forward the Environmental Assessment and Approvals Branch Director's approval or denial of the proposed project to the Assistant Deputy Minister of Operations Division.

5.1.3 Assistant Deputy Minister, Operations Division

The Assistant Deputy Minister of Operations Division shall:

- On the advice of the Director of the Environmental Assessment and Approvals Branch, as outlined above, approve or deny the request for funding and return the eligibility ruling to the Coordinator of the Environmental Clean-up Fund program.

5.1.4 Environmental Clean-up Fund Coordinator, Environmental Assessment and Approvals Branch

The Coordinator of the Environmental Clean-up Fund shall:

- Retain the original copy of the authorized eligibility ruling for recording purposes and forward one copy to the originator.

5.1.5 Business & Fiscal Planning Branch

The Business & Fiscal Planning Branch shall:

- Set up a project code and inform both the Project Coordinator and the Environmental Assessment and Approvals Branch.

6.0 EMERGENCY SPILL CLEAN-UP FUNDING REQUEST/REIMBURSEMENT

6.1 Responsibilities

The responsibilities for taking control of an emergency are set out in the *Emergency Plans Act* and Order-in-Council 1577/93.

6.1.1 Region

The Region shall:

- Undertake emergency response as per Ministry Guideline G-1;
- Determine the need for the Ministry to be directly involved in the clean-up in accordance with the Ministry's *Guideline on Spill Clean-up Options* (Procedure G-1-1);
- If necessary, secure the services of a contractor to clean-up and/or contain the spill, while following the Government's purchasing directives and guidelines;
- Provide the Environmental Clean-up Fund Coordinator in the Environmental Assessment and Approvals Branch with preliminary details of the work to be done (or work which has already been completed), as well as to provide and cost estimates;
- Ensure duties detailed in sections 4.2.2, 4.2.5 and 4.2.6 are carried out, including preparation of an information package to request funds from the Environmental Clean-up Fund.

It should be noted that the information package prepared by the Region may be submitted prior to the initiation of the work, or following initiation of the work. The actual timing of the submission is contingent upon the circumstances pertaining to each individual project, and the nature of the environmental emergency. This is an acceptable protocol, provided that the project manager/co-ordinator (or interim manager ie., the emergency responder) is making decisions within the bounds under which he or she is legally authorized to approve. The levels of authority are detailed in Procedure G-1-1 (The Ministry's Guideline on Spill Clean-up Options).

6.1.2 Environmental Assessment and Approvals Branch

The Environmental Assessment and Approvals Branch shall:

- Assess the information package for the funding request to determine compliance with eligibility requirements.
- Submit recommendations to the Assistant Deputy Minister of the Operations Division.
- Carry out project specific duties as detailed in section 4.2.3.

6.1.3 Assistant Deputy Minister, Operations Division

The Assistant Deputy Minister of Operations Division shall:

- Approve or deny the request and return the ruling to the Environmental Clean-up Fund Coordinator in the Environmental Assessment and Approvals Branch.

6.1.4 Environmental Clean-up Fund Coordinator, Environmental Assessment and Approvals Branch

The Environmental Clean-up Fund Coordinator shall:

- Notify the requesting Region and provide a Project Code Number and appropriate accounting codes to be used for payment of invoices.

6.1.5 Business & Fiscal Planning Branch

The Business & Fiscal Planning Branch shall:

- Ensure documentation is complete and process payments or initiate cost transfer where appropriate.

- Carry out project specific duties as detailed in Section 4.2.4.